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_____Mary Anza_____
(Signature of person mailing paper)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	Customer No.: 32127
)	
Sue H. Crim et al.)	Group Art Unit: 3628
)	
Application No.: 09/002,276)	Examiner: T.H. Bui
)	
Filed: December 31, 1997)	
)	
For: CLEC CONVERGENT BILLING SYSTEM)	

APPEAL BRIEF

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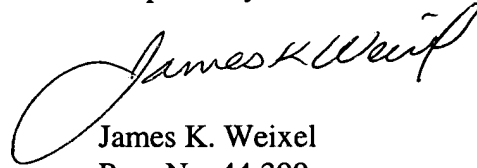P.O. BOX 1450
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Dear Sir:

Enclosed herewith is an Appeal Brief in the above-referenced application, filed in triplicate. Please charge the required fee of $320.00 to Deposit Account No. 07-2339.

97-500

The Assistant Commissioner for Patents is also authorized to charge any additional fee required by the submission of these papers, or to credit any overpayment to Deposit Account 07-2339. One additional copy of this letter is enclosed herewith.

Respectfully submitted,

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Enclosures

97-500

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	) Customer No. 32127
	)
Sue H. CRIM, et al.	) Group Art Unit: 3628
	)
Serial No.: 09/002,276	) Examiner: Bui, Thach H.
	)
Filed: December 31, 1997	)
	)
For: CLEC CONVERGENT BILLING SYSTEM	)
	)

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF UNDER 37 C.F.R. § 1.192

In support of its Notice of Appeal filed April 2, 2003, and pursuant to

37 C.F.R. § 1.192, Appellants present in triplicate their Appeal Brief. The Commissioner

of Patents is authorized to deduct the amount of $320.00 from Deposit Account 07-2339

to satisfy the $320.00 fee under 37 C.F.R. § 1.17(c). If additional fees are required or if

the enclosed payment is insufficient to support this appeal, please charge the

deficiencies to Deposit Account No. 07-2339. If a fee is required for an additional

extension of time under 37 C.F.R. § 1.136 and such fee is not accounted for above,

Appellants petition for such an extension and request that the fee be charged to Deposit

Account No. 07-2339. This is an appeal to the Board of Patent Appeals and

Interferences from a decision finally rejecting claims 7-12, 22-27, 37-42, and 48. The

appealed claims are set forth in Appendix A.

I.   Real Party Interest

The real party in interest is GTE Communications Corporation, a Delaware corporation.

II.   Related Appeals and Interferences

There are no known related pending appeals or interferences directly affected by or having a bearing on the decision in the pending appeal.

III.   Status Of Claims

Claims 7-12, 22-27, 37-42, and 48 have been finally rejected and are the subject of this appeal. The claims on appeal are set forth in the attached Appendix A. In the Final Office Action mailed December 2, 2002, the Examiner rejected claims 7-12, 22-27, 37-42, and 48 under 35 U.S.C. § 103(a) as being unpatentable over "Custom billing converges on industry: Increased competition for telcos means new service for customers," InfoWorld, pTW1 (Nov. 18, 1996) ("*InfoWorld*") in view of U.S. Patent No. 4,757,267 to Riskin ("*Riskin*").

Applicants canceled claims 13-16, 28-31, and 43-47 in the Amendment filed October 18, 2002, canceled claims 49-51 in the Amendment filed March 15, 2002, and canceled claims 1-6, 17-21, and 32-36 in the Amendment filed April 28, 2000.

IV.   Status Of Amendments

No amendments are pending. Appendix A contains the claims as they stood when rejected by the Final Office Action.

V. Summary Of Invention

Competitive Local Exchange Carriers or "CLECs" are telecommunications companies that resell the products and services (collectively referred to as products) of other telecommunications companies. (Specification ("Spec.") at 1-2; *see also*, spec. at 8, line 3.) For example, CLECs resell telecommunications equipment such as mobile telephones and power adapters manufactured by other companies. (*Id.*) CLECs also resell services provided by other telecommunications companies, such as voice mail, call forwarding, call waiting, caller ID, long distance service, local exchange service, wireless service handling paging and/or cellular traffic, and video service. (*Id.*) CLECs often offer customers packages or combinations of products, called bundles, at a discount compared to the combined regular price for each product or service. (*Id.* at 4.) Although a CLEC may itself provide some of the products it sells, in some instances it may not provide any of them.

Because a CLEC provides a wide variety of products and services from a disparate group of telecommunications providers, it incurs significant costs. (*Id.* at 2.) It is expensive for a CLEC to coordinate its provisioning operation with the many providers that supply a customer with the customer-selected products. (*Id.*) For example, a customer may select products and services of several different providers, including a company like Verizon for local exchange service (in those areas where Verizon provides local exchange service), AT&T for long distance service, Earthlink for Internet service, Verizon Wireless for wireless cellular service, and Bell South for a cellular phone and power adapter. Typically, each provider will require different "provisioning data" from the CLEC to place an order for a selected product, because each provider's order-processing procedures and order-processing equipment are different. (*Id.*) Additionally,

each provider typically requires the provisioning data to be in its own specific format in order to properly process product requests from the CLEC. (*Id.*) Consequently, the CLEC cannot just send one standardized order form to each provider when a customer requests a set of telecommunications products and/or services. Instead, the CLEC must determine the different products selected by the customer, then forward the appropriate provisioning data in the appropriate format to each of the selected providers. (*Id.*) Organizing the selected products, determining what provisioning data is required by each provider, and putting the provisioning data into the correct format for each provider are difficult and expensive tasks for the CLEC.

By the filing date of the present application, some companies, such as Saville Systems of Massachusetts, were offering "convergent billing" systems that processed usage data (i.e. recurring line fees, local telephone talk time charges, and long distance talk time charges) from different local telephone service providers and from long distance providers to generate a single combined customer bill that included all telephone service charges for a customer. (*Id.* at 3.) This type of telephone bill was called "convergent" because it combined, or converged, what used to be separate bills for each different telecommunication service into a single bill. (*Id.*)

Convergent billing systems, however, were designed to handle billing only. (*Id.* at 3-4.) They did not process the initial customer orders or requests for products supplied by different provider companies. (*Id.*) In addition, convergent billing systems were limited to billing for services only. (*Id.*) They were not designed to bill for products such as telephones and other telecommunications equipment. (*Id.*) The present

invention solves the problem of processing requests for bundles of products offered by at least two different providers.

Turning to the pending claims, claim 7 is drawn to a method for processing requests for products. The method comprises the steps, performed by a processor, of storing, in a database, a set of bundle codes, each bundle code indicating at least two products offered by at least two different providers, receiving a request identifying a customer and including a bundle code, converting a portion of the received request into at least one specifically-formatted provisioning request for each provider based on the received bundle code, and providing the provisioning requests to the providers to initiate a product supply process by each provider.

Claims 22 and 37 are drawn to a controller for processing requests for products and a computer program product containing instructions for causing a data processor to perform a method, respectively. The controller and computer program product include elements or steps that perform operations similar to the method steps described above with reference to claim 1.

Claim 48 is drawn to a data processing system for processing requests for products. The data processing system comprises a request-processing gateway controller, connected to a central controller, configured to receive customer requests for at least two different products offered by at least two different providers, and a service-provider gateway controller, connected to the central controller, configured to receive the customer requests via the central controller and to distribute specifically-formatted provisioning requests to each of the providers to initiate a product supply process by each of the providers.

Claim 8 depends from claim 7 and is drawn to a method for processing requests for products wherein the converting step includes the substep of deciphering the bundle code to identify the providers for the products. Claims 23 and 38 depend from claims 22 and 37, respectively, and are drawn to a controller and a computer program product, respectively, further including elements that perform operations similar to the method substep described for claim 8.

Claim 12 depends from claim 8 and is drawn to a method for processing requests for products wherein the deciphering step includes the substep of selecting product codes corresponding to the received bundle code from a stored table. Claims 27 and 42 depend from claims 23 and 38, respectively, and are drawn to a controller and a computer program product, respectively, further including elements that perform operations similar to the method substep described for claim 12.

Claim 9 depends from claim 7 and is drawn to a method for processing requests for products wherein the step of providing the provisioning request to the provider includes the substep of storing information from the received request as a customer record. Claims 24 and 39 depend from claims 22 and 37, respectively, and are drawn to a controller and a computer program product, respectively, further including elements that perform operations similar to the method substep described for claim 9.

Claim 10 depends from claim 7 and is drawn to a method for processing requests for products wherein the step of providing the provisioning requests to the providers includes the substep of determining a means for providing each of the provisioning requests to the providers. Claims 25 and 40 depend from claims 22 and 37, respectively, and are drawn to a controller and a computer program product,

respectively, further including elements that perform operations similar to the method

substep described for claim 10.

Claim 11 depends from claim 10 and is drawn to a method for processing

requests for products wherein the step of providing the provisioning requests to the

providers includes the substep of electronically transmitting or physically delivering the

provisioning requests to the providers based on the determination. Claims 26 and 41

depend from claims 22 and 37, respectively, and are drawn to a controller and a

computer program product, respectively, further including elements that perform

operations similar to the method substep described for claim 11.

VI.   Issues

The issue in this Appeal are:

Whether the Examiner's final rejection of claims 7-12, 22-27, 37-42, and 48

under 35 U.S.C. § 103(a) as being unpatentable over *InfoWorld* in view of *Riskin* can be

affirmed when neither *InfoWorld* nor *Riskin* teach or suggest converting a portion of the

received request into at least one specifically-formatted provisioning request for each

provider based on the received bundle code, and providing the provisioning request to

the providers to initiate a product supply process by each provider.

VII.   Grouping Of Claims

In the claims on appeal, claims 7, 22, 37, and 48 are the independent claims.

The claims on appeal should be considered in one group:

Group I: 7-12, 22-27, 37-42, and 48.

The claims have been placed in this group due to their common subject matter.

VIII. **The Examiner's Position That _InfoWorld_ and _Riskin_ Teach or Suggest Each and Every Feature of Claims 7, 22, 37, and 48 Must Be Reversed Because Neither Reference Discloses or Suggests Converting a Portion of the Received Request Into At Least One Specifically-Formatted Provisioning Request for Each Provider and Providing the Provisioning Request to the Providers to Initiate a Product Supply Process by Each Provider.**

In rejecting claims 7, 22, 37, and 48 under 35 U.S.C. § 103(a) as being

unpatentable over _InfoWorld_ in view of _Riskin_, the Examiner alleged that _InfoWorld_

discloses all the recited elements of these claims, except a database. (Final Office

Action mailed December 2, 2002, paper no. 22, ("Final OA") at 2, ¶ 2.) Appellants

respectfully disagree.

To establish a _prima facie_ case of obviousness under 35 U.S.C. § 103, the

Examiner must demonstrate that (1) _InfoWorld_ and _Riskin_ disclose or suggest each and

every element recited in the claims; (2) there is a reasonable probability of success for

any modification of the teachings of _InfoWorld_ in view of _Riskin_, and (3) there exists

some suggestion or motivation, either in the teachings of _InfoWorld_ or _Riskin_, or in the

knowledge generally available to one of ordinary skill in the art, to make such a

modification in a manner resulting in the claimed invention. _See_ M.P.E.P. § 2143 (7th

ed. 1998). Furthermore, each of these requirements must be found in the prior art–not

based on Applicants' own disclosure. _See id._

In this case, the Examiner failed to establish at least one of the requirements for

a _prima facie_ case of obviousness–that _InfoWorld_ and _Riskin_ disclose or suggest each

and every element recited in claims 7, 22, 37, and 48. Independent claim 7, for

example, recites a method for processing requests for products. The method stores in

a database a set of bundle codes, each bundle code indicating at least two products

offered by at least two different providers. A request identifying a customer and including a bundle code is received and a portion of the received request is converted into at least one specifically-formatted provisioning request for each provider based on the received bundle code. The provisioning requests are provided to the providers to initiate a product supply process by each provider.

In the Final Office Action, the Examiner alleged that *InfoWorld* discloses all these recited features except a database. (Final OA at 2, ¶ 2.) Among other things, however, *InfoWorld* does not disclose or suggest "converting a portion of the received request into at least one specifically-formatted provisioning request for each provider based on the received bundle code; and providing the provisioning request to the providers to initiate a product supply process by each provider," as recited in claim 7. Instead, *InfoWorld* discloses convergence billing systems that combine all of a customer's telecommunications charges onto one bill. (*InfoWorld* at 1, ¶¶ 1, 5, 7, 8.) For example, *InfoWorld's* disclosed billing systems can send a customer a single bill for long-distance, cellular, paging, data, international, and internet access charges. (*Id.* ¶ 7.)

InfoWorld's disclosure of convergence billing systems does not teach or suggest all the features recited in claim 7 because sending a combined bill to a customer is not the same as processing a customer's requests for products by "converting a portion of the received request into at least one specifically-formatted provisioning request for each provider based on the received bundle code; and providing the provisioning request to the providers to initiate a product supply process by each provider," as recited in claim 7.

InfoWorld teaches providing a customer with a combined bill for various telecommunications services used by the customer. A "bill" is an itemized list or statement of fees and charges. *The American Heritage College Dictionary*, 137 (3d ed. 2000). Thus, *InfoWorld's* combined bill is an itemized list of charges for various telecommunications services that a customer used. *InfoWorld* does not teach or suggest a "received request" as recited in claim 7, because *InfoWorld's* convergence billing system does not process requests for products; it merely bills customers for services they used. *InfoWorld* does not teach or suggest "at least one specifically-formatted provisioning request for each provider" because *InfoWorld's* convergence billing system does not request that providers supply products to customers; it merely bills customers for telecommunications services they used. *InfoWorld* does not teach or suggest "providing the provisioning request involved with initiating a product supply process by each provider," rather it teaches providing a bill to a customer for telecommunications services used. (*InfoWorld* at 1, ¶¶ 1, 20-22, 25). Simply put, a phone bill is not a provisioning request, nor does it suggest one. There is simply no statement or suggestion in *InfoWorld* related to processing requests for products, as recited in claim 7.

Furthermore, as the present application points out, combined billing systems such as those produced by Saville Systems (*see InfoWorld* at 2, ¶¶ 5-8), "could not process customer requests for products and services of different LECs or other companies" (spec. at 3), "could not accommodate requests for products such as telephones and other telecommunications equipment" (*id.* at 3-4), and were not "capable of processing requests for packages of products and services and to offer

discounts for such products and services based on the selection of a package(s)," (*id.* at 4).

In the Final Office Action, the Examiner noted that *InfoWorld* teaches that telephone companies are offering convergence billing for their own basic services, but that they have yet to integrate non-basic services from affiliate partners and their own new services into the billing system. (Final OA at 3 (citing *InfoWorld* at ¶ 7, 8).) The Examiner alleged that this disclosure of adding new services to an established convergence billing system "proves" that *InfoWorld* teaches "'convergence billing' wherein one specifically-formatted provisioning is requested for each provider based on the received bundle code; and provides the provisioning request to the providers to initiate a product supply process by each provider." (Final OA at 3.) Applicants respectfully disagree and emphasize that the pending claims do not recite and are not directed to a convergence billing system. Rather, the claims are directed toward processing product requests. In other words, the claims are directed toward receiving an order for a customer's desired products and providing that customer order to all the appropriate product providers for each of the desired products. The claims do not encompass convergence billing, i.e., providing a customer with an itemized list of charges for various telecommunications services that a customer used.

Like *InfoWorld*, *Riskin* does not teach or suggest "converting a portion of the received request into at least one specifically-formatted provisioning request for each provider based on the received bundle code; and providing the provisioning request to the providers to initiate a product supply process by each provider," as recited in claim 7. Nor has the Examiner alleged such.

IX. CONCLUSION

Based on the foregoing arguments, neither *InfoWorld* nor *Riskin*, whether taken alone or in combination, teach or suggest each and every element of claim 7. Thus, the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 for claim 7. Similarly, the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 for independent claims 22 and 37, which recited structures and computer code that perform operations similar to those recited in claim 7. For at least the same reasons, the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 for independent claim 48, which recites elements that receive customer requests and distribute specifically-formatted provisioning requests to each of the providers to initiate a product supply process by each of the providers, similar to the operations recited in claim 7. Accordingly, Appellants respectfully request that the Board reverse the rejection of claims 7, 22, 37, and 48 under 35 U.S.C. § 103.

Also based on the foregoing arguments, and by virtue of their depending from independent claims 7, 22, and 37, Appellants respectfully request that the Board reverse the rejection of claims 8-12, 23-27, and 38-42 under 35 U.S.C. § 103.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain

entry of this Appeal Brief, such extension is hereby respectfully requested. If there are

any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith,

including any fees required for an extension of time under 37 C.F.R. § 1.136, please

charge such fees to our Deposit Account No. 07-2339.

Respectfully submitted,

Dated: _5/21/2003_   By: _James K Weixel_
                                                    James K. Weixel
                                                    Reg. No. 44,399

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APPENDIX A - CLAIMS AFTER MARCH 27, 2002, AMENDMENT

7. (Thrice Amended) A method for processing requests for products comprising the steps, performed by a processor, of:

storing in a database a set of bundle codes, each bundle code indicating at least two products offered by at least two different providers;

receiving a request identifying a customer and including a bundle code;

converting a portion of the received request into at least one specifically - formatted provisioning request for each provider based on the received bundle code; and

providing the provisioning requests to the providers to initiate a product supply process by each provider.

8. (Amended) The method of claim 7, wherein the converting step includes the substep of:

deciphering the bundle code to identify the providers for the products.

9. The method of claim 7, wherein the step of providing the provisioning request to the provider includes the substep of

storing information from the received request as a customer record.

10. The method of claim 7, wherein the step of providing the provisioning requests to the providers includes the substep of

determining a means for providing each of the provisioning requests to the providers.

11.   The method of claim 10, wherein the step of providing the provisioning requests to the providers includes the substep of

electronically transmitting or physically delivering the provisioning requests to the providers based on the determination.

12.   The method of claim 8, wherein the deciphering step includes the substep of

selecting product codes corresponding to the received bundle code from a stored table.

22.   (Four Times Amended) A controller for processing requests for products comprising:

a database configured to store a set of bundle codes, each bundle code indicating at least two different products offered by at least two different providers;

a receiver configured to receive a request identifying a customer and including a bundle code;

a converter configured to convert a portion of the received request into at least one specifically-formatted provisioning request for each provider based on the received bundle code; and

a component configured to provide the provisioning requests to the providers to initiate a product supply process by each provider.

23. (Thrice Amended) The controller of claim 22, wherein the converter includes:

a decoder configured to decode the bundle code to identify the providers for the products.

24. (Amended) The controller of claim 22, wherein the component configured to provide the provisioning requests to the providers includes:

storage configured to store information from the received request as a customer record.

25. (Amended) The controller of claim 22, wherein the component configured to provide the provisioning requests to the providers includes:

a component configured to determine a means for providing each of the provisioning requests to the providers.

26. (Amended) The controller of claim 22, wherein the component configured to provide the provisioning requests to the providers includes:

a transmitter configured to electronically transmit the provisioning requests to the providers.

27. (Amended) The [billing] controller of claim 23, wherein the decoder includes:

means for selecting product codes corresponding to the received bundle code

from a stored table.

37. (Four Times Amended) A computer program product containing instructions

for causing a data processor to perform a method, the method comprising:

storing in a database a set of bundle codes, each bundle code indicating at least

two products offered by at least two different providers;

receiving a request identifying a customer and including a bundle code;

converting a portion of the received request into at least one specifically-

formatted provisioning request for each provider based on the received bundle code;

and

providing the provisioning requests to the providers to initiate a product supply

process by each provider.

38. (Amended) The computer program product of claim 37, wherein converting

includes:

deciphering the bundle code to identify the providers for the products.

39. (Amended) The computer program product of claim 37, wherein

provisioning includes:

storing information from the received request as a customer record.

40. (Amended) The computer program product of claim 37, wherein provisioning includes:

determining a means for providing each of the provisioning requests to the providers.

41. (Amended) The computer program product of claim 37, wherein provisioning includes:

electronically transmitting the provisioning requests to the providers based on the determination.

42. (Amended) The computer program product of claim 38, wherein deciphering includes:

selecting product codes corresponding to the received bundle code from a stored table.

48. (Amended) A data processing system for processing requests for products comprising:

a request-processing gateway controller, connected to a central controller, configured to receive customer requests for at least two different products offered by at least two different providers; and

a service-provider gateway controller, connected to the central controller, configured to receive the customer requests via the central controller and to distribute

specifically-formatted provisioning requests to each of the providers to initiate a product

supply process by each of the providers.